



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DOROTEO POLANCO,

Plaintiff,

v.

TIANO'S CONSTRUCTION CORP.,  
ET AL.,

Defendants.

11 Civ. 3024 (DAB) (HBP)  
ADOPTION OF REPORT  
AND RECOMMENDATION

-----X  
DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the June 20, 2012 Report and Recommendation of United States Magistrate Judge Henry B. Pitman (the "Report"). Judge Pitman's Report recommends that this action be dismissed against Defendant Lloyd Ambinder, Esq. for lack of subject matter jurisdiction. (Report at 2.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The district court may adopt those portions of the report to which no timely objection has been made, so long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). "[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the

magistrate's decision." Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (quoting Small v. Sec. of HHS, 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review..." Small, 892 F.2d at 16.

Despite being advised of the procedure for filing objections in Judge Pitman's Report, and warned that failure to file objections would waive objections and preclude appellate review, (Report at 8-9), Plaintiff has filed no objections to the Report. Nor has any other Party filed objections to the Report.

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED AND ADJUDGED that the Report and Recommendation of United States Magistrate Judge Henry B. Pitman, dated June 20, 2012, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety. This action is hereby DISMISSED as to Defendant Lloyd Ambinder, Esq. for lack of subject matter jurisdiction.

This resolves the Motion at Docket Number 11. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith, and therefore

in forma pauperis status is denied for the purpose of an appeal.

See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: New York, New York  
September 6, 2012

A handwritten signature in black ink, reading "Deborah A. Batts". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Deborah A. Batts  
United States District Judge